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ALEXANDER L. STEVAS,
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No. 80-2121

In The

Supreme Court of The United States

October Term, 1980

Edward Dean Martin,

Petitioner

v.

The State of Georgia,

Respondent

AMENDENT TO REPLY BRIEF

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Counsel for Petitioner

COMES NOW, Edward Dean Martin, who is the petitioner in the above captioned matter, and files this his amendment to his reply brief and respectfully shows to this honorable court the following, to-wit:

I.

FACTUAL ISSUE

A. Since the filing of petitioner's petition for writ of certiorari, has the Supreme Court of Georgia ruled that a criminal defendant on trial for his liberty in a non-narcotic case is entitled on motion timely made to have an expert of his own choosing bound by appropriate safeguards imposed by the court, examine critical evidence whose nature is subject to varying expert opinion?

II.

LEGAL ISSUE

A. On June 30, 1981, was the law in Georgia broadened to state that a criminal defendant on trial for his liberty in a non-narcotic case was entitled on motion timely made to have an expert of his own choosing, bound by appropriate safeguards imposed by the court, examine critical evidence whose nature is subject to varying expert opinion?

III.

LAW INVOLVED

" We now hold that the due process requirments of Patterson and Barnard are not limited to narcotics cases. A criminal defendant on trial for his liberty is entitled on motion timely

made to have an expert of his own choosing, bound by appropriate safeguards imposed by the court, examine critical evidence whose nature is subject to varying expert opinion." JAMES RUSSELL SABEL V. STATE, NO. 37184, decided in the Supreme Court of Georgia on 6-30-81.

IV.

LAW APPLIED TO FACTS

In his original petition for writ of certiorari to the court of appeals for the State of Georgia petitioner has shown that he was entitled on motion timely made to have an expert of his own choosing, bound by appropriate safeguards imposed by the court, examine critical evidence whose nature was subject to varying expert opinion. In his reply brief filed in response to

the States brief in opposition for the respondant, petitioner has shown that the evidence sought for independent examination and testing constituted critical evidence in view of the facts and circumstances of the matter at bar.

In view of the Sabel v. State case, supra, it logically and legally follows that the matter at bar should be referred back to the Court of Appeals of Georgia for further consideration so that a determination can be made in light of the above as to whether or not the petitioner is entitled to a new trial after an expert of his own choosing has had an opportunity to examine the subject items of physical evidence.

V.

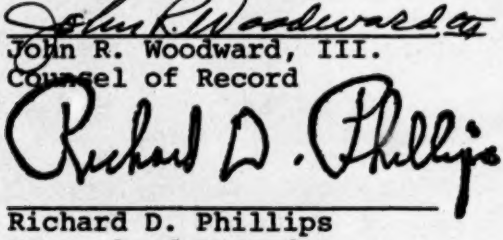
CONCLUSION

The Supreme Court of Georgia has now ruled that a criminal defendant on trial for his liberty in a non-narcotic matter is now entitled on motion timely made to have an expert of his own choosing, bound by appropriate safeguards imposed by the court, examine critical evidence whose nature is subject to varying expert opinion.

WHEREFORE, PREMISES CONSIDERED, petitioner respectively prays again that this honoralbe court issue a writ of certiorari to the Court of Appeals for the State of Georgia to review this cause for the reasons stated above, and that this court either remand petitioner's cause for further

consideration by the Court of Appeals for the State of Georgia.

Respectively submitted,

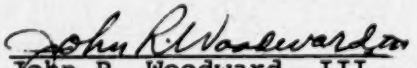


John R. Woodward, III.
Counsel of Record

Richard D. Phillips
Counsel of Record

CERTIFICATE OF SERVICE

I, John R. Woodward, III., a member of the bar of this court and counsel of record for petitioner, hereby certify that on this 9th day of September, I served three copies of petitioner's amendment to reply brief upon the Honorable Michael Bowers, Attorney General, by mailing the same to him via United States mail, first class postage prepaid, from Ludowici, Georgia, addressed to him at 132 State Judicial Building, Atlanta, Georgia. 30334.



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